

CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION
MINUTES OF MEETING, Public Session

April 12, 2007

Call To Order: Chairman Ross Johnson called the meeting to order at 10:00 a.m., at 428 J Street, Eighth Floor, Sacramento, California. Chairman Johnson, and Commissioners Timothy A. Hodson, Gene Huguenin, Bob Leidigh, and Ray Remy were present. Chairman Johnson introduced and welcomed the new Commission Assistant, Kim Truong.

Item #1. Public Comment. This portion of the meeting is reserved for comment on items not on the agenda. Under the Bagley-Keene Act, the Commission cannot act on items raised during public comment, but may respond briefly to statements made or questions posed; request clarification; or refer the item to staff.

There was no public comment.

Item #2. Approval of the March 8, 2007, Commission meeting minutes.

Moved by Commissioner Leidigh and seconded by Commissioner Huguenin to approve the minutes as amended.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson. The motion passed 5-0.

Item #3. In the Matter of Maribel De La Torre, Families for Maribel De La Torre, Steven Veres and Oscar E. Jimenez, FPPC No. 02/408. Respondent Maribel De La Torre ("De La Torre") was a successful candidate for the San Fernando City Council in the March 6, 2001, election. She was reelected on March 8, 2005. Respondent Families for Maribel De La Torre was Respondent De La Torre's controlled committee. Respondents Steven Veres and Oscar E. Jimenez served as the committee's treasurers. In this matter, Respondents De La Torre, Families for De La Torre and Steven Veres failed to timely file semi-annual campaign statements in violation of subdivision (a) of Section 84200 of the Government Code (2 counts), and failed to disclose required contributor information in a semi-annual campaign statement, in violation of subdivision (f) of Section 84211 of the Government Code (1 count). Respondents De La Torre, Families for Maribel De La Torre and Oscar E. Jimenez failed to timely file a semi-annual campaign statement, in violation of subdivision (a) of Section 84200 of the Government Code (1 count).

Total Proposed Penalty: \$6,000

Moved by Commissioner Remy and seconded by Commissioner Leidigh to approve total of four counts in the amount of six thousand dollars (\$6,000) monetary penalty for the respondents failure to timely file campaign statements and disclose required contributor information.

Respondents agrees to the issuance of the decision and order.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson. The motion passed 5-0.

Item #4. In the Matter of David Benitez, FPPC No. 06/938. David Benitez, a City of Pomona Community Life Commissioner, failed to timely file his assuming office statement of economic interests in violation of Section 87300 of the Government Code (1 count).

Total Proposed Penalty: \$250

Moved by Commissioner Remy and seconded by Commissioner Leidigh to approve one count in the amount of two hundred fifty dollars (\$250) monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson. The motion passed 5-0.

Item #5. In the Matter of Celia Ruiz, FPPC No. 06/948. Celia Ruiz, a consultant for the Transbay Joint Powers Agency, failed to timely file her 2005 annual statement of economic interests in violation of Section 87302 of the Government Code (1 count).

Total Proposed Penalty: \$100

Moved by Commissioner Remy and seconded by Commissioner Leidigh to approve one count in the amount of one hundred dollars (\$100) monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson. The motion passed 5-0.

Item #6. In the Matter of Carlos Baker, FPPC No. 06/823. Carlos Baker, a retired judge who served on assignment for 30 days or more in 2005, failed to timely file a 2005 annual statement of economic interests in violation of Section 87203 of the Government Code (1 count).

Total Proposed Penalty: \$100

Moved by Commissioner Remy and seconded by Commissioner Leidigh to approve one count in the amount of one hundred dollars (\$100) monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson. The motion passed 5-0.

Item #7. In the Matter of Eric Gores, FPPC No. 06/993. Eric Gores, Developmental Disabilities Council Member, failed to timely file his assuming office statement of economic interests in violation of Section 87302 of the Government Code (1 count).

Total Proposed Penalty: \$100

Moved by Commissioner Remy and seconded by Commissioner Leidigh to approve one count in the amount of one hundred dollars (\$100) monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson. The motion passed 5-0.

Item #8. In the Matter of Diana Verdugo, FPPC No. 06/985. Diana Verdugo, Speech-Language Pathology & Audiology Board Member, failed to timely file her 2005 annual statement of economic interests in violation of Section 87302 of the Government Code (1 count).

Total Proposed Penalty: \$100

Moved by Commissioner Remy and seconded by Commissioner Leidigh to approve one count in the amount of one hundred dollars (\$100) monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson. The motion passed 5-0.

Item #9. Failure to Timely File Major Donor Campaign Statements. The following entity has entered into a stipulation for failing to file major donor campaign statements that were due during calendar years 2004, 2005 and 2006 in violation of Section 84200 of the Government Code:

a. In the Matter of Kindred Healthcare Operations Inc., FPPC No. 07/0041.

Kindred Healthcare Operations Inc. of Louisville, Kentucky failed to timely file semi-annual campaign statements disclosing contributions totaling \$10,600 in 2004, \$11,200 in 2005, and \$10,750 in 2006 (3 counts).

Total Proposed Penalty: \$1,600

Moved by Commissioner Remy and seconded by Commissioner Leidigh to approve three counts in the amount of one thousand six hundred dollars (\$1,600) monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson. The motion passed 5-0.

Item #10. Failure to Timely File Late Contribution Reports – Proactive Program. The following persons have entered into a stipulation for failure to file a late contribution report in 2005 in violation of Section 84203 of the Government Code:

a. In the Matter of Albert Armijo for Pico Rivera City Council, FPPC No. 06/0790.

Albert Armijo for Pico Rivera City Council, located in Pico Rivera, failed to timely disclose late contributions totaling \$6,536.14 (4 counts).

Total Proposed Penalty: \$980.42

Moved by Commissioner Remy and seconded by Commissioner Leidigh to approve four counts in the amount of nine hundred eighty dollars and forty-two cents (\$980.42) monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson. The motion passed 5-0.

b. In the Matter of Timothy K. Bliss, FPPC No. 07/0044. Timothy K. Bliss of Santa Barbara, failed to timely disclose a late contribution totaling \$50,000 (1 count).

Total Proposed Penalty: \$3,500

Moved by Commissioner Remy and seconded by Commissioner Leidigh to approve one count in the amount of three thousand five hundred dollars (\$3,500) monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson. The motion passed 5-0.

c. In the Matter of Charles T. Munger, FPPC No. 07/0048. Charles T. Munger of Los Angeles, failed to timely disclose a late contribution totaling \$10,000 (1 count).

Total Proposed Penalty: \$1,500

Moved by Commissioner Remy and seconded by Commissioner Leidigh to approve one count in the amount of one thousand five hundred dollars (\$1,500) monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson. The motion passed 5-0.

Item #11. Adoption of Proposed Amendments to Regulation 18402 – Requiring Election Committees to Include Names of Candidates in Name of Committees. Staff: Senior Commission Counsel Andreas C. Rockas, Technical Assistance Division Chief Carla Wardlow, and General Counsel Scott Hallabrin. The proposed amendments to Regulation 18402 require committees controlled by a candidate or candidates for their own election to include the name of the candidate or candidates in the name of the committee.

Chairman Johnson introduced the Commission's new General Counsel Scott Hallabrin. Tony Miller, Chief of the Political Reform Division with the Office of the Secretary of State, came before the Commission urging the support and adoption of Regulation 18402.

Moved by Commissioner Remy and seconded by Commissioner Huguenin to adopt Item #11. AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson. The motion passed 5-0.

Item #12. Prenotice Discussion of Regulation 18466 – Online Reporting of Contributions and Expenditures for State Ballot Measures. Staff: Senior Commission Counsel Hyla P. Wagner and General Counsel Scott Hallabrin. Section 84204.5, added to the Act in 2006, requires additional online disclosure of contributions and expenditures for ballot measures. Proposed Regulation 18466 clarifies these new disclosure requirements.

Commissioner Leidigh raised concerns with subdivisions (a)(1) and (a)(2) of proposed Regulation 18466. In subdivision (a)(1) the language change from "a single" which is in Section 84204.5, to "one or more state ballot measure(s)." This looks like a change from the bill that this regulation is implementing. Commissioner Leidigh expressed if the language read instead "five thousand dollars (\$5,000) or more cumulative to a primarily form committee supporting or opposing one or more ballot measures" and was tied to the definition of a primarily formed committee, the regulation would be more straightforward. In subdivision (a)(2) a second layer of possible confusion is created because it is not clear who is supplying the money to the general purpose ballot measure committee.

Ms. Wagner agreed with Commissioner Leidigh that the language of subdivisions (a)(1) and (a)(2) does not mirror each other. Commissioner Leidigh suggested that maybe an Interested Persons' Meeting could shed some light on workability. General Counsel Scott Hallabrin agreed that if the Chairman and Commissioners approve the Prenotice Discussion of Proposed Regulation 18466 it will be available to members of the public that have subscribed to the Commission's e-mail list.

Commissioner Remy said that he would like staff to include in the June memorandum a discussion of the concerns raised by Commission Leidigh.

Moved by Commissioner Hodson and seconded by Commissioner Leidigh to approve Item #12. AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson. The motion passed 5-0.

Item #13. Prenotice Discussion of Expansion of Executive Director’s Discretion to Delegate Authority to Conduct Probable Cause Hearings – Amendment of Regulation 18361.7 and Adoption of Regulation 18361. Staff: Senior Commission Counsel Lawrence T. Woodlock and General Counsel Scott Hallabrin. Staff proposes amendment of Regulation 18361.7 and adoption of Regulation 18361, enabling the Executive Director to delegate to Commission staff other than the General Counsel his authority over probable cause proceedings and related enforcement duties. This expanded discretion would ensure that these duties are carried out with fairness and impartiality to all parties.

Mr. Woodlock proposed staff amendments to the draft regulation as follows: Line 6 of Regulation 18361 change from “Commission staff” to “Legal Division staff.” Commissioner Leidigh had one concern with “Legal Division staff;” he did not want this to be confused with just anyone in the Legal Division. Chairman Johnson agreed and suggested that it should be amended to “attorneys on the Legal Division staff.” Mr. Woodlock agreed with Chairman Johnson that this was the intent. Commissioner Leidigh felt that Regulation 18361 needs some work to get things clarified regarding what the regulation is doing in the sense of who gets delegated what and under what circumstances. Charles Bell with Bell, McAndrews, Hiltachk & Davidian, LLP, came before the Commission suggesting he will work with staff to look at tasks that could be delegated by the Executive Director. Mr. Woodlock announced that on line 11 of Regulation 18361.7 the words “the Executive Director” should be underscored because it is not existing text but is new language.

Moved by Commissioner Huguenin and seconded by Commissioner Hodson to have Item #13 come back for another prenotice for further discussion.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson. The motion passed 5-0.

Item #14. Prenotice Discussion on Staff Attendance at, and Record of, Closed Session Deliberations on Civil Enforcement Litigation – Amendment of Regulation 18361.2. Staff: General Counsel Scott Hallabrin. Staff proposes amendment of Regulation 18361.2, concerning the Commission’s closed session deliberations on whether to initiate civil litigation in enforcement cases, as follows: (1) Requiring the General Counsel, or the General Counsel’s designee, and the Commission Assistant to attend the closed session; (2) Permitting the Executive Director to attend the closed session; and (3) Requiring the recording, rather than the transcription, of specified communications made at the closed session.

Commissioner Leidigh suggested on line 11 “General Counsel’s designee” should be clear, meaning a lawyer from the Legal Division representing the Commission. Chairman Johnson agreed, suggesting the language should read as follows: “The General Counsel or an attorney from the Legal Division designated by the General Counsel.” On line 12, General Counsel Scott Hallabrin would like to remove “The Executive Director may be in attendance.” To amend Regulation 18361.4 from “transcription” to “recording” to reflect changes made to Regulation 18361.2. Commissioner Leidigh encouraged staff to look into possible legal reasons of providing respondent(s) with a transcript rather than a recording, just to avoid possible legal problems down the line.

Moved by Chairman Johnson and seconded by Commissioner Hodson to approve Item #14 with amendments to Regulation 18361.2 and the change in Regulation 18361.4.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson. The motion passed 5-0.

Item #15. Legislative Report. Staff: Legislative and Communications Coordinator Whitney Barazoto.

There was no discussion.

Item #16. Litigation Report. Staff: General Counsel Scott Hallabrin.

There was no discussion.

Item #17. Executive Director's Report. Staff: Executive Director Michael B. Salerno.

There was no discussion.

Chairman Johnson announced the summer schedule has been revised. There will be no meeting in the month of July instead it will be held Thursday, August 16, 2007.

Chairman Johnson adjourned open session at 10:50a.m.; advising the Commission would immediately go into closed session.

The Commission returned to open session at 11:55a.m. Chairman Johnson announced Michael B. Salerno was unanimously appointed as the Executive Director of the Commission.

The meeting was adjourned at 11:57 a.m.

Dated: April 19, 2007

Respectfully submitted,

Kim Truong
Commission Assistant

Approved by:

Ross Johnson
Chairman